

UNITED STATES DISTRICT COURT
for the
Northern District of New York



UNITED STATES OF AMERICA)

v.)

MICHELLE M. SYLER,)

Defendant.)

Case No. 18-MJ-104 (CFH)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between the dates of December 30, 2017 and February 27, 2018, in the county of Albany in the Northern District of New York, the defendant violated:

Code Section
Title 18 United States Code, Sections
2252A(a)(2)(A) and 2252A(b)(1)

Offense Description
Distribution and receipt of child pornography

This criminal complaint is based on these facts:
Please see attached affidavit.

☒ Continued on the attached sheet.

Complainant's signature

FBI Special Agent Brian P. Seymour

Printed name and title

Sworn to before me and signed in my presence.

Date: February 27, 2018

Judge's signature

City and State: Albany, New York

Hon. Christian F. Hummel, U.S. Magistrate Judge

Printed name and title

Affidavit in Support of a Criminal Complaint

I, Brian P. Seymour, being duly sworn, depose and state:

Introduction

1. I make this affidavit in support of a criminal complaint charging Michelle M. Syler (“Syler”) with knowingly receiving and distributing child pornography that has been transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, in violation of Title 18 United States Code, Sections 2252A(a)(2)(A) and 2252A(b)(1).

2. I am a Special Agent with the Federal Bureau of Investigation (FBI). I have been so employed since September 2007. I am assigned to the FBI’s Albany Field Office. I have participated in investigations of persons suspected of violating federal child pornography laws, including Title 18, United States Code, Sections 2251, 2252 and 2252A. My duties include investigating criminal violations relating to child exploitation and child pornography, including violations pertaining to the illegal production, distribution, receipt and possession of child pornography in violation of 18 U.S.C. §§ 2252 and 2252(A). I have received extensive training in the area of investigating child sexual exploitation, and have had the opportunity to observe and review numerous examples of child pornography in all forms of media including computer media.

3. I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), that is, I am an officer of the United States who is empowered by law to conduct investigations of offenses enumerated in Title 18, United States Code, Section 2516(1). As an FBI Special Agent, I am authorized to seek and execute federal arrest and search warrants for Title 18 criminal offenses.

4. The statements contained in this affidavit are based upon my investigation,

information provided by other law enforcement officers and FBI personnel, and on my experience and training as a Special Agent of the FBI. As this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation.

Basis for a Probable Cause Finding

5. FBI Task Force Officer Christopher Smith is an Investigator with the Colonie Police Department with extensive training and experience in the area of child pornography investigations. Beginning on December 30, 2017, Inv. Smith conducted an investigation into the sharing of child pornography through the Gnutella peer-to-peer, file-sharing network. Inv. Smith used a law enforcement tool that allows single-source downloads from a single computer connected to the network.

6. Inv. Smith identified a computer on the Gnutella network with the Internet Protocol ("IP") address 24.169.15.212 as a potential download candidate (source) for a number of files of investigative interest. The computer using IP address 24.169.15.212, and connected to Gnutella by way of software called Shareaza, reported a user nickname of "Michelle Syler."

7. On December 30, 2017, Inv. Smith successfully completed the download of seventeen (17) files from IP address 24.169.15.212. Eight (8) of the files depict sexually explicit images and/or conduct involving minors. The images depicted prepubescent females with their genitals exposed in a lewd and lascivious manner, and are available for the Court's review upon request. Below is a description of two (2) of the downloaded files:

- a. 9yo Jenny nude with legs spread wide apart showing pussy - underage lolita r@ygold pthc ptsc ddogprn pedo young child sex preteen hussyfan kiddie kiddy porn.jpg: A photo depicting a prepubescent female approximately five (5) years of

age lying on her back wearing only black stockings. Her legs are spread and the focus of the image is her exposed genitals. She is bound at her wrists and legs with yellow rope and has a black collar around her neck.

- b. b!anya-kidz-index-2-006 (bd company lsm ls models ls magazine ls island dasha anya).jpg: A photo depicting a prepubescent female approximately five (5) years of age lying on her back wearing only a shirt. The female's legs are spread with her genitals exposed and are the focus of the image.

8. Through the use of a subpoena to Charter Communications, the Internet Service Provider for the IP address, I learned that IP address 24.169.15.212 was assigned to Syler's residence in the city and county of Albany.

9. A criminal history report for Michelle M. Syler (year of birth: 1968) lists a 2012 conviction in Rensselaer County Court for possessing an obscene sexual performance by a child, a class E felony (New York State's equivalent of possession of child pornography). In 2012, Syler was placed on 10 years of probation. In January 2014, upon a violation of that probation, Syler was resentenced to 18 months incarceration and 3 years of post-release supervision. Syler was released to parole supervision in July 2014, and re-incarcerated in September 2014 for a violation of parole. She was again released in August 2015, and remained on parole supervision until her maximum expiration date of October 12, 2017.

10. FBI Special Agents and other law enforcement officers executed a federal search warrant on Syler's Albany residence on February 27, 2018. Syler was interviewed in the living room of her residence. She was not in custody.

11. Syler admitted to searching for and downloading images of child pornography using her laptop computer. Syler stated she acquired the laptop computer from "Doris" in October

2017 after she finished her term of parole. She began searching for child pornography in December 2017, and most recently downloaded and viewed child pornography two weeks ago. Syler used the program Shareaza to search for and download child pornography. Syler admitted her username on Shareaza is Michelle Syler. Syler understood that it was illegal to download and possess child pornography. Syler used "cleaning" software and re-installed the operating system on her laptop yesterday because she does not have a valid Windows software license.

12. Syler voluntarily accompanied Agents to the FBI Office where she was *Mirandized* and interviewed further.

13. Syler admitted she would use the search terms "LS models," "Fantasia Models," "PTHC" and "PTSC" on Shareaza in order to find child pornography (based on my training and experience, the last two terms I know to stand for "preteen hardcore" and "preteen softcore," respectively). Syler said she does not enjoy images or videos that contained adults with children; she preferred images or videos that depicted only children. Syler understood that Shareaza used peer-to-peer, file-sharing to download files and that other users could download files from her computer. Syler said she moved the child pornography files that she downloaded using Shareaza from the download folder to a "videos" or a "pictures" folder on her computer depending on file type.

14. Syler was shown eight (8) printed copies of image files that were downloaded on December 30, 2017 directly from the IP address assigned to Syler's residence. Syler admitted to downloading and viewing several of these image files.

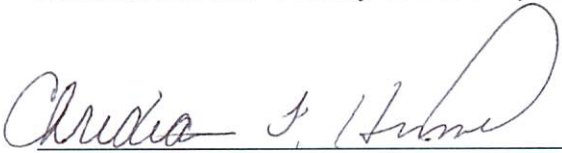
Conclusion

15. Based upon the above information, there is probable cause to conclude that between December 30, 2017 and February 27, 2018, Michelle Syler received and distributed child pornography in violation of Title 18 United States Code, Sections 2252A(a)(2)(A) and 2252A(b)(1).

A handwritten signature in blue ink, appearing to read "B. P. Seymour", is written over a horizontal line.

Brian P. Seymour, Special Agent
Federal Bureau of Investigation

Sworn to me this 27th day of February 2018.

A handwritten signature in black ink, appearing to read "Christian F. Hummel", is written over a horizontal line.

Hon. Christian F. Hummel
United States Magistrate Judge